

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

REVA JO JOHNSON)	
Claimant)	
VS.)	
)	Docket Nos. 225,129 & 228,751
THE BOEING COMPANY)	
Respondent)	
AND)	
)	
INSURANCE CO. STATE OF PENNSYLVANIA)	
Insurance Carrier)	

ORDER

Respondent appeals from a preliminary hearing Order entered by Administrative law Judge Jon L. Frobish on June 4, 1998.

ISSUES

Claimant alleges injury to both her left knee and her right knee. Respondent does not dispute the claim for injury to the left knee. But respondent contends: (1) claimant did not sustain injury to her right knee arising out of and in the course of her employment; and, (2) claimant did not give timely notice of injury to her right knee.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes that the ALJ's Order for medical treatment should be affirmed.

The Appeals Board finds the record establishes that claimant hurt her left knee on June 9, 1997, when she slipped on oil left on the floor. Claimant fell a second time in November 1997. On the second occasion, she had symptoms in both her left knee and right knee. The record also indicates claimant subsequently aggravated her right knee injury by climbing stairs at work. Claimant has a preexisting impairment in the right knee. But, the Board finds that claimant has established accidental injury to her right knee arising out of and in the course of her employment. The injury may be an aggravation of the preexisting condition. It may be temporary. Nevertheless, the record establishes accidental injury arising out of and in the course of employment.

Claimant testified that she notified respondent of both accidents. The Appeals Board finds claimant gave notice of accident as required by K.S.A. 44-520.

Respondent's contention that claimant is not in need of medical treatment for her right knee does not raise a jurisdictional question. That issue is, therefore, not subject to review by the Appeals Board at this stage of the proceedings. K.S.A. 1997 Supp. 44-534a and K.S.A. 1997 Supp. 44-551.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish on June 4, 1998, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of July 1998.

BOARD MEMBER

c: Michael L. Snider, Wichita, KS
Eric K. Kuhn, Wichita, KS
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director